

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

H

5

HOUSE BILL 468  
Committee Substitute Favorable 4/15/13  
Third Edition Engrossed 4/16/13  
Senate State and Local Government Committee Substitute Adopted 7/2/13  
Fifth Edition Engrossed 7/3/13

Short Title: High Point Elections/Tryon Charter Amendments.

(Local)

Sponsors:

Referred to:

April 1, 2013

1 A BILL TO BE ENTITLED  
2 AN ACT TO CHANGE THE METHOD OF ELECTION OF THE MAYOR AND CITY  
3 COUNCIL MEMBERS OF THE CITY OF HIGH POINT TO HOLD THE ELECTIONS  
4 IN ODD-NUMBERED YEARS AND BY A NONPARTISAN PRIMARY AND  
5 ELECTION METHOD AS PROVIDED BY GENERAL LAW AND TO AMEND THE  
6 CHARTER OF THE TOWN OF TRYON.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** Section 3.1 of the Charter of the City of High Point, being Chapter  
9 501 of the 1979 Session Laws, as amended by Ordinance Number 86-7 under Part 4 of Article  
10 5 of Chapter 160A of the General Statutes and Section 2(a) of S.L. 2006-171, reads as  
11 rewritten:

12 "Sec. 3.1. Method of election. ~~Regular~~Beginning with the 2017 election, regular municipal  
13 elections shall be held in the City biennially in ~~even-numbered~~odd-numbered years, and shall  
14 be conducted in accordance with State law governing municipal elections. The mayor and  
15 members of the council shall be elected by the nonpartisan ~~plurality~~primary and election  
16 method provided for in ~~G.S. 163-292~~G.S. 163-294."

17 **SECTION 2.** If the referendum provided in Section 4 is approved, and  
18 notwithstanding any other provision of law, in the 2014 election, the terms of the mayor and  
19 council members elected shall be for three years.

20 **SECTION 3.** Sections 1 and 2 of this act become effective only if approved by a  
21 majority of the qualified voters of the City of High Point in a referendum. The election shall be  
22 conducted by the appropriate county board(s) of elections in the November 2014 general  
23 election. The question on the ballot shall be:

24 "[ ] FOR [ ] AGAINST

25 Beginning in the 2017 election and every two years thereafter, electing the mayor  
26 and the city council members by using the nonpartisan primary and election method pursuant to  
27 State law, and the mayor and city council members elected at the 2014 election serving a  
28 three-year term to expire in 2017."

29 **SECTION 4.** The Charter of the Town of Tryon, being Section 1 of Chapter 441 of  
30 the 1971 Session Laws, reads as rewritten:

31 "THE CHARTER OF THE TOWN OF TRYON

32 ...

33 "ARTICLE III. MAYOR AND BOARD OF COMMISSIONERS



\* H 4 6 8 - V - 5 \*

1 ...  
2 "Sec. 3.2. Mayor and Mayor Pro Tempore. The Mayor shall be elected by and from the  
3 qualified voters of the Town voting at large in the manner provided in Article IV. The Mayor  
4 shall be the official head of the Town government and shall preside at all meetings of the Board  
5 of Commissioners. Where there is an equal division on a question, the Mayor shall determine  
6 the matter by his or her vote, but he or she shall vote in no other case. The Mayor shall exercise  
7 such powers and perform such duties as are or may be conferred upon him or her by the general  
8 laws of North Carolina, by this Charter, and by the ordinances of the Town. The Board of  
9 Commissioners shall choose one of its number to act as Mayor Pro Tempore, and he or she  
10 shall perform the duties of the Mayor in the Mayor's absence or disability. The Mayor Pro  
11 Tempore as such shall have no fixed term of office, but shall serve in such capacity at the  
12 pleasure of the remaining members of the Board.

13 "Sec. 3.3. Terms; Qualifications; Vacancies.

14 ...  
15 (b) No person shall be eligible to be a candidate or be elected as Mayor or as a member  
16 of the Board of Commissioners or to serve in such capacity, unless he or she is a resident and a  
17 qualified voter of the Town.

18 ...

#### 19 "ARTICLE V. TOWN MANAGER

20 "Sec. 5.1. The Board of Commissioners shall appoint a Town Manager who shall be the  
21 administrative head of the Town government responsible for the supervision and administration  
22 of all departments and ~~employees-employees,~~ except the Town ~~Attorney-Attorney and Town~~  
23 Clerk. Notwithstanding G.S. 160A-148(1), the Board of Commissioners shall appoint the Town  
24 Clerk, but may grant to the Town Manager the authority to direct and supervise the Town Clerk  
25 to the extent and in the manner deemed appropriate by the Board of Commissioners. The Town  
26 Manager shall be appointed with regard to merit only, and he or she need not be a resident of  
27 the Town at the time of his or her appointment. He or she shall hold office during the pleasure  
28 of the Board of Commissioners and shall receive such compensation as it shall fix by  
29 ordinance.

30 The Town Manager so appointed shall (1) be the administrative head of the Town  
31 government; (2) see that within the Town the laws of the State and the ordinances, resolutions  
32 and regulations, of the Board of Commissioners are faithfully executed; (3) attend all meetings  
33 of the Board of Commissioners, and recommend for adoption such measures as he or she shall  
34 deem expedient; (4) make reports to the Board of Commissioners from time to time upon the  
35 affairs of the Town, and keep the Board fully advised of the Town's financial condition and its  
36 future financial needs; (5) appoint and remove all employees of the Town, except the Town  
37 Attorney and Town Clerk, and all appointments and removals of department heads made by the  
38 Manager shall be reported to the Board of Commissioners at its next succeeding meeting; and,  
39 (6) perform all other duties as may be required by the Board of Commissioners.

#### 40 "ARTICLE VI. TOWN ATTORNEY

41 "Sec. 6.1. Appointment; Qualifications; Term; Compensation. The Board of  
42 Commissioners shall appoint a Town Attorney who shall be an attorney at law licensed to  
43 engage in the practice of law in North Carolina and who need not be a resident of the Town  
44 during his or her tenure. The Town Attorney shall serve at the pleasure of the Board and shall  
45 receive such compensation as the Board shall determine.

46 "Sec. 6.2. Duties of Town Attorney. It shall be the duty of the Town Attorney to prosecute  
47 and defend suits for and against the Town; to advise the Mayor, Board of Commissioners,  
48 Town Manager, and other Town officials with respect to the affairs of the Town; to draw all  
49 legal documents relating to the affairs of the Town; to draw proposed ordinances when  
50 requested to do so; to inspect and pass upon all agreements, contracts, franchises and other

1 instruments with which the Town may be concerned; and to perform such other duties as may  
2 be required of him or her by virtue of his or her position of Town Attorney.

3 "ARTICLE VII. ADMINISTRATIVE OFFICERS AND EMPLOYEES

4 "Sec. 7.1. Town Clerk. ~~The Town Manager~~Notwithstanding G.S. 160A-148(1), the Board  
5 of Commissioners may appoint a Town Clerk to keep a journal of the proceedings of the Board  
6 of Commissioners and to maintain in a safe place all records and documents pertaining to the  
7 affairs of the Town, and to perform such other duties as may be required by law or as the ~~Town~~  
8 ~~Manager~~Board may direct. The Board of Commissioners may grant to the Town Manager the  
9 authority to direct and supervise the Town Clerk to the extent and in the manner deemed  
10 appropriate by the Board of Commissioners.

11 "Sec. 7.2. Town Tax Collector. The Town Manager may appoint a Tax Collector to collect  
12 all taxes, licenses, fees and other moneys belonging to the Town, subject to the provisions of  
13 this Charter and the ordinances of the Town, and he or she shall diligently comply with and  
14 enforce all the general laws of North Carolina relating to the collection, sale, and foreclosure of  
15 taxes by municipalities.

16 ...

17 "Sec. 7.4. Consolidation of Functions. The Town Manager may, with the approval of the  
18 Board of Commissioners, consolidate any two or more of the positions of Town Clerk, Town  
19 Tax Collector, and Town Accountant, or may assign the functions of any one or more of these  
20 positions to the holder or holders of any other of these positions. The Town Manager may also,  
21 with the approval of the Board of Commissioners, himself or herself perform all or any part of  
22 the functions of any of the named offices, in lieu of appointing other persons to perform the  
23 same.

24 "ARTICLE VIII. FINANCE

25 ...

26 "Sec. 8.2. Independent Audit. As soon as practicable after the close of each fiscal year, an  
27 independent audit shall be made of all books and accounts of the Town government as provided  
28 in G.S. 159-34 by a certified public accountant or a qualified public accountant ~~registered~~  
29 certified under Chapter 93 of the General Statutes of North Carolina, who shall have no  
30 personal interest directly or indirectly in the affairs of the Town or of any of its officers. The  
31 Board of Commissioners shall select the public accountant, and the results of such audit shall  
32 be made available for inspection by any interested citizen of the Town, and may be published if  
33 so ordered by the Board of Commissioners.

34 "ARTICLE IX. ZONING

35 "The Town of Tryon Planning and Adjustment Board shall be comprised of seven members  
36 and two alternates. The Board of Commissioners shall appoint four members and one alternate  
37 who shall be residents of the Town. ~~The Board of Commissioners of Polk County shall appoint~~  
38 ~~five~~ three members and one alternate who shall be residents of the area outside of and within  
39 one mile of the corporate limits of the Town of Tryon, to serve as members of the Town  
40 Planning Board, and five residents of such area to serve as members of the Town Zoning Board  
41 of Adjustment, Tryon. Such ~~The~~ members appointed by the Board of Commissioners of Polk  
42 County shall have equal rights and privileges with the other members of such Board ~~the Board~~  
43 in all matters pertaining to the planning and zoning of the territory outside of and within one  
44 mile of the corporate limits of the Town. The concurring vote of ~~eight members~~ eighty percent  
45 (80%) of the Zoning Board of Adjustment Planning and Adjustment Board shall be necessary in  
46 order to reverse any order, requirement, decision, or determination of any administrative  
47 official with respect to the territory outside of and within one mile of the corporate limits of the  
48 Town.

49 The Board of Commissioners may require that, prior to the beginning of any construction,  
50 reconstruction or alteration of any building or structure located within the extraterritorial  
51 zoning jurisdiction, a permit be obtained from the Town. The permit shall be issued if the

1 proposed construction, reconstruction or alteration complies with the provisions of the zoning  
2 ordinance and map.

3 ...

4 "ARTICLE XII. WATER AND SEWER

5 "Sec. 12.1. Alternative Methods of Assessment. In addition to, and as alternatives, to the  
6 method provided in G.S. 160-241 for assessing the costs of water and sewer lines and laterals,  
7 the Board of Commissioners, if in its opinion it would be more equitable to do so, is hereby  
8 authorized in its discretion to levy any such assessments according to either of the following  
9 methods: (1) equally against each of the lots capable of being served by such line or lines, or  
10 (2) on the basis of the footage of land upon a public street by an equal rate per foot of such  
11 frontage.

12 In lieu of assessing the total cost of a particular project as herein provided, the governing  
13 body may annually, between the first days of January and July of each year, determine the  
14 average cost of installing water and sewer mains or lines and on the basis of such determination  
15 may make assessments of such average cost during the following fiscal year beginning July 1.  
16 The average cost of such installation shall include the cost of the particular size and material of  
17 lines completed during the preceding calendar year. It may also include the anticipated increase  
18 in labor and materials costs based upon the average of such increases during the preceding five  
19 calendar years. The assessment of the average cost of such line shall not be made until after the  
20 particular assessment project has been completed. The purpose of this Section is to distribute  
21 more equitably the cost of the installation of water and sewer lines throughout the Town; to  
22 permit a property owner to know in advance what the cost of installation of water and sewer  
23 lines benefiting his or her property will be; and to permit the most expeditious assessment of  
24 cost against property after completion of the installation of such lines. The actual cost of  
25 acquisition of rights-of-way may also be assessed as a part of the cost of an individual project.  
26 If the right-of-way costs have not been determined and assessed with the assessment of the  
27 average installation costs at the time of the completion of the project, such costs may be  
28 assessed separately when they are determined.

29 ...

30 "ARTICLE XIII. REFUSE, WEEDS, AND TRASH

31 "Sec. 13.1. Property Kept Free of Offensive Matter. It shall be the duty of every property  
32 owner in the Town to keep his or her property free from noxious weeds, trash, and all other  
33 forms of offensive animal or vegetable matter or refuse which may be dangerous or prejudicial  
34 to the public health or which may constitute a public nuisance.

35 ...."

36 **SECTION 5.** Except as otherwise provided, this act is effective when it becomes  
37 law.